



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNC FF

### Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenants on May 28, 2016. The Tenants filed seeking an order to cancel a 1 Month Notice to end tenancy for cause and to recover their filing fee.

No one was in attendance at the scheduled teleconference hearing.

### Issue(s) to be Decided

Should this application be dismissed with or without leave to reapply?

### Background and Evidence

There was no additional evidence or testimony provided as there was no one in attendance at the scheduled hearing.

### Analysis

Section 61 of the *Residential Tenancy Act* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the Director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for an oral teleconference hearing.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the applicant Tenants and respondent Landlord, the telephone line remained open while the phone system was monitored for ten minutes and no one on behalf of either party called into the hearing during this time. Based on the

aforementioned I find the Tenants failed to present the merits of their application. Accordingly, I dismissed the Tenant's application, without leave to reapply.

Section 55(1) of the *Act* stipulates that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The burden to prove that a valid notice to end tenancy was sufficiently served upon a tenant lies with the landlord. Therefore, in absence of any submissions from the Landlord, I find there to be insufficient evidence to prove a valid notice to end tenancy was served upon the Tenants in accordance with section 55(1)(A) of the *Act*. Accordingly, I declined to issue the Landlord an Order of Possession in relation to this proceeding.

### Conclusion

The Tenants' application was dismissed, without leave to reapply.

This decision is final, legally binding, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 04, 2016

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Residential Tenancy Branch